

REMARKS

A Request for a One (1) Month Extension of Time pursuant to 37 C.F.R. §1.136(a) and (b) is attached hereto.

The above-captioned patent application has been carefully reviewed in light of the final Office Action to which this Amendment is responsive. Claims 1 and 11-13 have been amended in an effort to further clarify and particularly point out that which is regarded as the present invention. Claim 2 has been canceled and new Claims 14-16 have been added. To that end, it is believed that no new matter has been added to the above-captioned application.

Claims 1, 2 and 6-13 stand as pending. Each of the pending claims have been rejected in light of certain prior art. More particularly, Claims 1, 2 and 9-12 have been rejected under 35 U.S.C. §102(b) based on Perl (U.S. Patent No. 3,750,951), Claims 6-8 have been rejected under 35 U.S.C. §103(a) based on the combination of Perl and Kenney (U.S. Patent No. 6,652,249), Claim 10 has been rejected under 35 U.S.C. §103(a) based on Perl and Claim 13 has been rejected under 35 U.S.C. §103(a) based on Perl and Selders (Electric Motors – Lubrication and Cleaning). Claims 11-13 have also been rejected on the grounds of non-statutory obviousness-type double patenting as being unpatentable over Claims 10-12 of USSN 10/719,768 and further in view of Perl (U.S. Patent No. 3,759,951). Applicant respectfully requests reconsideration based on the amended claims, as well as the following discussion.

First and in order to anticipate under the Patent Statute, each and every claimed limitation must be found in the single cited prior art reference. Those limitations that are not found in the single cited reference must be notoriously well known to those of ordinary skill in the field of the invention.

As previously noted by Applicant, the Perl reference includes a motor housing that is used in a dishwasher. This motor housing permits the entrance and exit of liquid therein, but fails to include unsealed motor components within the housing. For example, Perl specifically includes stators that are retained within either sealed

assemblies or in which the stators are encapsulated – see Perl at col 3, lines 49-51 as well as col 4, lines 46-49. To that end, the present construction of this reference is to permit water to facilitate water and washing fluid to enter the motor housing, but in which each of the motor components themselves is sealed such that the motor components are not damaged. In an alternative structure, the stator is provided in a hermetically sealed oil-filled receptacle, see Perl at col 5, lines 3-5 and 15-18.

The present invention, on the other hand, provides at least one stator within the interior of the motor housing that is unsealed and is designed to operate in wet environments. Though the present motor assembly is not intended to be operated contemporaneously with the washing operation, as in the case of Perl, the ingress of fluid into the housing does not hinder later operation in that the thermal energy developed is sufficient to drive off any residual fluid, including that remaining on the unsealed motor components as well as the exterior exposed surfaces of the housing. Perl on the other hand is intended to operate specifically while the washing operation is occurring and requires sealed components in order to permit this operation. To that end, the above references are apposite and distinct.

Applicant has amended independent Claim 1 in an effort to better clarify and particularly point out the present invention. Support is found, for example, at paragraph [0028] of the present specification. Therefore, it is believed no new matter has been added. Because Claim 1 includes specific subject matter that is not found in Perl, it is believed that this reference cannot anticipate under the Statute. Claim 2 has been canceled and Claims 9-12 are believed to be allowable because these claims depend from independent amended Claim 1. Reconsideration is respectfully requested.

Turning to the Section 103 rejections and in order to maintain a successful prima facie obviousness rejection under the Statute, each and every claimed limitation must be found or suggested, either singly or in combination, in the cited art. Those limitations that are not found or suggested must be notoriously well known in the field of the invention to one of sufficient (i.e., ordinary) skill at the time of the invention. In terms of making a combination of references, the entirety of the references should be

considered. The references should not be regarded in a piecemeal fashion in order to recreate the invention using impermissible hindsight. To that end, the Examiner should identify a motivation found in the prior art as a whole to make the purported combination.

Perl has already been discussed with regard to amended Claim 1. That is, Perl discusses a motor assembly that includes a housing that permits the influx and exiting of fluid with respect to a motor contained therein. The motor of Perl, however, includes sealed motor components, including stators and the like, wherein fluid is drawn in relation to the motor components in order to facilitate heat transfer. That is to say, Perl teaches an assembly in which the teaching permits sealed motor components (for a dishwasher, in this instance) to be brought into contact with a moving fluid during operation. The secondary reference to Kenney also describes a motor assembly that includes stators and rotors involving a moving fluid, in this instance, for a DC pump motor. However, like Perl, the components of the assembly are also sealed and to that end neither of the cited references teaches the inclusion of an unsealed motor assembly in which, for washing (not operating) purposes, fluid can be permitted to enter and drain from a housing containing unsealed motor components, such as at least one unsealed stator that is designed to operate in a wet environment. To that end, it is believed the cited references actually teach away from the present invention in that each of the assemblies described are teaching operation with totally sealed interior components. It is believed Claim 1, as amended, now clearly distinguishes the salient differences. The inclusion of Selders also fails to include this feature, as now recited in Claim 1. Therefore, it is believed that a prima facie obviousness rejection cannot be sustained with regard to amended Claim 1. It is further believed that the rejections to Claims 6-8, 10 and 13 should also be withdrawn. Reconsideration is therefore respectfully requested.

With regard to the obviousness-type double patenting rejection, Applicant herein intends to submit a terminal disclaimer with regard to pending USSN 10/719,867.

However, Applicant first respectfully requests that the Examiner provide a ruling with regard to the amended claims prior to submission of same.

Finally, new Claims 14-16 have been added. Claim 14 specifies the form of lubricant used in the bearings while Claims 15 and 16 specify the nature (sealed, unsealed) of the resolver of the herein claimed motor assembly. Support is found, for example, at paragraph [0031] for the subject matter of Claim 14, paragraph [0032] for Claims 15 and 16. Therefore, it is believed no new matter has been added. Favorable consideration of these claims is also respectfully requested.

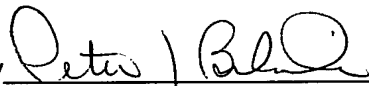
In summary, it is believed the above-captioned patent application is now in an allowable condition and such allowance is earnestly solicited.

Should the Examiner wish to expedite disposition of the above-captioned application, he is invited to contact Applicant's representative at the telephone number listed below.

Applicant herein authorizes the Director to charge our Deposit Account No. 50-0289, under Order No. 847_072 from which the undersigned is authorized to draw for the one (1) month extension of time and for any additional fees and to credit any overcharges thereto.

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Respectfully submitted,

By 

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